

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA DEPARTMENT OF HUMAN RIGHTS

State of Minnesota, by
Stephen W. Cooper, Commissioner,
Department of Human Rights,

FINDINGS OF-FACT,
CONCLUSIONS-AND
ORDER

Complainant,

Vs

First Financial Holding
Group, Inc.,

Respondent.

The above-entitled matter came on for hearing before Administrative Law Judge Peter C. Erickson at 9:00 a.m. on Thursday, August 9, 1990 at the Office of Administrative Hearings, Minneapolis, Minnesota. The record on this matter closed at the conclusion of the hearing.

Stephen L. Smith, Special Assistant Attorney General, 1100 Bremer Tower, Seventh Place and Minnesota Street, St. Paul, Minnesota 55114, appeared on half of the Complainant, Minnesota Department of Human Rights. The Respondent, First Financial Holding Group, Inc., did not appear at the hearing.

On June 26, 1990, the undersigned Judge issued an Order determining that Respondent had discriminated against the Charging Party on the basis of race. This hearing, to determine damages, was subsequently scheduled.

NOTICE

Pursuant to Minn. Stat. 363.071, subd. 2, this Order is the final decision in this case and under Minn. Stat. 363.072, the Commissioner of the Department of Human Rights or any other person aggrieved by this decision may seek judicial review pursuant to Minn. Stat. 14.63 through 14.69.

STATEMENT OF ISSUE

The issue to be determined in this proceeding is the amount of damages the Charging Party should be awarded due to Respondent's discriminatory acts.

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

1the Judge was informed, by telephone, that Respondent would not be appearing at any stage of this proceeding and would not file an Answer. Consequently, this matter has proceeded by default.

FINDINGS OF FACT

1. Harrison Davis, a black male, was employed as a sales representative with First Financial Holding Group on February 1, 1988. Respondent was in the business of buying and selling American coins, foreign coins, and precious metals.

2. Mr. Davis and four other newly-hired sales representatives attended a two-week training session during their first several weeks of employment. On the first day of the two-week session, Jack Wallace, the training supervisor, only brought four sets of training materials for the five trainees. Mr. Davis was not given a set of materials and Mr. Wallace joked that he thought there were only four trainees. Mr. Wallace continued this practice of not bringing materials for Mr. Davis during the entire two weeks of training. Additionally, Mr. Wallace would not respond to Mr. Davis' questions and requests for assistance during the sessions.

3. Harrison Davis was Respondent's only black employee.

4. Mr. Davis' sales performance both during and after the training session was above average when compared to the other trainees. Mr. Davis was told that he was doing a good job.

5. After the training session had been completed and the trainees chose offices, a female trainee who had chosen an office next to Mr. Davis was criticized because of her choice and forced to choose another office.

6. Although all of the trainees were assigned to an account executive for sales leads, Mr. Davis was not. He was forced to find his leads from old files maintained by Respondent.

7. Mr. Davis never received any indication from Respondent that his job performance was anything but fully adequate.

8. On April 29, 1988, Mr. Wallace informed Mr. Davis that he (Harrison Davis) was "just not making it" and would be terminated. There was no other explanation for the discharge.

9. Subsequent to his discharge, Mr. Davis suffered financial problems which caused a great deal of stress at home. Harrison Davis was unable to meet his previous obligations because of the lack of an adequate income. Additionally, Mr. Davis lost his self esteem and suffered depression.

10. At the time of his discharge, Mr. Davis was earning \$1,500 per month. He was due for a salary increase to \$2,000 per month on May 1, 1988 if he had remained employed with Respondent.

11. After his termination, Mr. Davis became employed with Rogers Cable Company until he was laid off due to a lack of work. Mr. Davis earned \$9,945 while employed by Rogers Cable and collected \$1,470 in unemployment compensation after the layoff.

12. In 1989, Mr. Davis became employed by Midwest Patrol for a period of six months. During that time, he earned \$10,250. After leaving Midwest Patrol, Mr. Davis collected unemployment compensation in the amount of \$3,870.

13. In March of 1990, Mr. Davis became employed by General Mills as a delivery driver, earning \$5.50 per hour. Mr. Davis continues to work for General Mills at the present time. During 1990, Harrison Davis earned \$4,664 from his employment with General Mills.

14. Harrison Davis' compensatory damages in 1988 were \$8,585; in 1989 -- \$9,880; and 1990 -- \$11,336 (assuming a continuing salary of \$2,000 per month if Mr. Davis had remained employed by Respondent).

15. At the present time, Harrison Davis has difficulty dealing with potential white employers due to his experience with First Financial Holding Group, Inc.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS OF LAW

1. The Administrative Law Judge has jurisdiction over this matter pursuant to Minn. Stat. 14.50 and 363.071 (1988). The Notice of Hearing was proper and the Complainant has complied with all substantive and procedural requirements of statute and rule.

2. Harrison Davis is entitled to compensatory damages in the amount of \$29,801.

3. Harrison Davis is entitled to the sum of \$10,000 for mental anguish and suffering.

4. Respondent shall pay a civil penalty to the State of Minnesota in the amount of \$5,000.

Based upon the foregoing Conclusions of Law, the Administrative Law Judge makes the following:

ORDER

IT IS HEREBY ORDERED that Respondent shall pay damages to Harrison Davis in the amount of \$39,801. Respondent shall pay to the General Fund of the State of Minnesota (check payable to the State of Minnesota General Fund submitted to the Department of Human Rights) a civil penalty in the amount of \$5,000.

Dated this 13 day of August, 1990.

PETER C. ERICKSON
Administrative Law Judge

Reported: Taped. No Transcript Prepared.